

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIENT EXPRESS CONTAINER CO., LTD.,

Plaintiff,

-against-

DOUBLE ACE CARGO INC.,

Defendant.

21 Civ. 7357

COMPLAINT

PLEASE TAKE NOTICE that Plaintiff, ORIENT EXPRESS CONTAINER CO., LTD. (“OEC”), by its attorneys, Mahoney & Keane, LLP, as and for a Complaint against Defendant, DOUBLE ACE CARGO INC. (“DOUBLE ACE”), alleges, upon information and belief, as follows:

1. This is a claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and falls under the Court’s admiralty and maritime and federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1333 in that it involves a claim for the breach of a maritime contract.
2. Plaintiff, OEC, is a corporation duly organized and existing pursuant to the laws of foreign country, with offices and a place of business located in Shanghai, China.
3. Defendant, DOUBLE ACE, is a corporation duly organized and existing pursuant to the laws of Florida with offices and a place of business located at 2175 NW 115 Avenue, Miami, Florida 33172.
4. The United States District Court for the Southern District of New York is the proper venue for this action pursuant to the Jurisdiction clause contained in the governing Bill of Lading.
5. Plaintiff sues on its own behalf and as agent and trustee on behalf of any other party who may now have or hereinafter acquire an interest in this action.

AS AND FOR A FIRST CAUSE OF ACTION

6. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "5" as if specifically set forth herein at length.

7. On or about January 14, 2020, and at all times relevant herein, OEC, as "Carrier", and DOUBLE ACE, as "Consignee" and "Merchant", entered into and were parties to Bill of Lading numbered OERT216702J00062 for the ocean carriage of containerized cargo said to include stainless steel brackets from Dalian, China to Miami, Florida aboard the M/V CMA CGM EIFFEL. A true copy of the Bill of Lading face page, together with its Terms and Conditions, are herewith attached as Exhibit 1.

8. Plaintiff duly performed all duties and obligations required to be performed by Plaintiff in connection with the goods.

9. Defendant wrongfully, willfully, negligently and/or fraudulently breached the terms of the subject agreements by, inter alia, failing to pay for per diem, detention, and demurrage charges accrued on the container, all as duly invoiced by Plaintiff to Defendant. A true copy of OEC's Invoice to DOUBLE ACE is herewith attached as Exhibit 2.

10. As a result of Defendant's breach of the agreements, Plaintiff has incurred, and will continue to incur, costs and expenses for which Defendant is liable under the terms of the governing contract and at law.

11. Plaintiff has placed Defendant on notice of its claim that Defendant has breached the subject agreements and violated Plaintiff's rights under the law.

12. Despite Plaintiff's repeated demands, Defendant has failed to pay the Plaintiffs' damages due and owing under the agreements and at law.

13. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$36,250.00, together with interest, costs, fees, including reasonable attorneys' fees, and expenses.

AS AND FOR A SECOND CAUSE OF ACTION

14. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "13" as if specifically set forth herein at length.

15. Defendant has an account stated with Plaintiff.

16. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$36,250.00, together with interest, costs, fees, including reasonable attorneys' fees, and expenses.

AS AND FOR A THIRD CAUSE OF ACTION

17. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "16" as if specifically set forth herein at length.

18. Defendant has been unjustly enriched at Plaintiff's expense, and Plaintiff is entitled to restitution from Defendant in the amount of \$36,250.00, together with interest, costs, fees, including reasonable attorneys' fees, and expenses.

AS AND FOR A FOURTH CAUSE OF ACTION

19. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "18" as if specifically set forth herein at length.

20. Plaintiff is due from Defendant the quantum meruit of Plaintiff's services.

WHEREFORE, Plaintiffs pray that judgment be entered in favor of Plaintiff for an amount exceeding \$36,250.00, together with interest, costs, fees, including reasonable attorneys' fees, and disbursements; that Court process be issued against the Defendant; and that Plaintiffs be granted such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September __, 2021

MAHONEY & KEANE, LLP
Attorneys for Plaintiff

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